



W.P.No.16767 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.No.16767 of 2024

D.Amose, S/o Durai,
307, Redhilspuram, Othikkadu
Tiruvallur, Tamil Nadu 602 021.

... Petitioner

Vs.

1. The District Collector,
Tiruvallur District, Tamilnadu.

2. The Tahsildar, Tiruvallur Taluk,
Tiruvallur District, Tamil Nadu.

3. D.Anbu, S/o Durai.
329, Redhillspuram, Othiddadu,
Tiruvallur, Tamil Nadu 602 021.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the first and second respondents to put an end to the construction of building on the lake canal poramboke land in survey No.182/2 by the third respondent.



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For Petitioner : Mr.M.Velmurugan

For Respondents : Mr.A.Edwin Prabakar, State Government Pleader
for first and second respondents
Mr.R.Veeramani for third respondent

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed to direct the first and second respondents to take action against the third respondent, who constructed building on the ' lake canal puramboke land ' in survey No.182/2, Othikkadu Village, Thiruvallur Taluk, Thiruvallur District.

2. According to the petitioner, the third respondent is constructing building in the land in Survey No182/2, Othikkadu Village, which is classified as " Kulam Puramboke" and hence as a representative of the above village, he seeks direction to remove the encroachment made by the third respondent on the above water body. He also produced the extract of the Survey and Re-settlement Register of Othikkadu Village, in which, S.No.182/2 (Old survey No.182 B) measuring to an extent of 1.79 Acres is shown as Pond (குளம்).



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3. The Special Government Pleader appearing for the official respondents, on instructions, submitted that, the subject matter of the property, viz. S.No.182/2, measuring to an extent of 0.72.5 Hectares in Othikaadu Village, Thiruvallur Taluk is classified as " Kulam", in which the third respondent has encroached the land to an extent of 0.01cent. He also submitted that totally 46 families are living in the above said S.No.182/2 by constructing houses, encroaching the above land (குளம்). It is further submitted by him that the petitioner himself has encroached the land to an extent of 0.05.00 Hectares, in the land measuring 0.14.00 Hectares in S.No.193, which is classified as "cart track" (வண்டிப் பாட்டை). Further, for removal of the encroachment, notice under Section 7 of the Tamil Nadu Land Encroachment Act (Act 3 of 1905) was issued to the third respondent. In this regard, a letter dated 23.07.2024, sent by the Tahsildar, Thiruvallur District, to the Government Advocate is placed before this court.

4. The learned counsel appearing for the third respondent submitted that, notice was issued to the third respondent alone, whereas, no notice was issued as against the other encroachers. He further submitted that the third



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respondent is in possession of the land in S.No.183/3, for which patta was also issued to him. It is contended by him that the third respondent is residing in the above said property for more than 60 years and if any action is taken against him for removal of encroachment, he will be put to irreparable trouble and hardship. Hence, he seeks for some alternative accommodation.

5. The Extract of " A- Register " clearly shows that the land measuring 0.72.5 Hecatres in Survey No.182/2, Othikkadu Village, Thiruvallur taluk, is classified as water body (குளம்). Therefore, the third respondent has no right to construct the building in said land. However, according to the third respondent, he is residing in S.No.182/3 for which patta was also granted to him.

6. Considering the submission made by the learned Special Government Pleader that notice under Section 7 of the Tamil Nadu Land Encroachment Act was issued against the third respondent and no notice was issued against the other encroachers, we inclined to pass the following



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order.

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i) The respondent concerned is directed to proceed in accordance with law for removal of the encroachments made in Survey No.182/2, Othikkadu Village, Thiruvallur Taluk, which is classified as water body, by strictly following the procedure, as contemplated under the Tamil Nadu Land Enroachment and Eviction of Law, after issuing notice to the encroachers.

ii) If any explanation is submitted by the encroachers, the same shall be considered by the official respondents for giving alternative accommodation, if possible, by taking into account the factum of their continuous possession in the property.

iii) The above said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of. No costs.

(D.K.K., A.CJ.)

(K.B.J.)

Internet: Yes/No

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To

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Tiruvallur District, Tamilnadu.
2. The Tahsildar, Tiruvallur Taluk,
Tiruvallur District, Tamil Nadu.



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THE HON'BLE ACTING CHIEF JUSTICE

and

K. KUMARESH BABU, J.

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